

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:18-cr-00262

EUGENE CALVIN WELLS,
MIRANDA DAWN BRANDON, and
SHERRY GRAY

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant Miranda Dawn Brandon's motion to continue the trial and all case related actions for a period of approximately sixty (60) days. ECF No. 26. In support of her motion and the need for a continuance, counsel for defendant states that additional time is necessary to prepare for trial. Id. Specifically, defense counsel requests additional time in light of counsel for Eugene Calvin Wells filing a motion to withdraw as counsel, and also considering the fact that counsel is involved in two separate trials in the coming months. Id. The government and co-defendant Sherry Gray do not oppose a continuance. See id. John Carr, new counsel for Eugene Calvin Wells, informed the court that the defendant has no objection to the requested continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant

and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that the nature of the case makes it unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act. The court further finds that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:


- I. Trial of this action is continued until 9:30 a.m. on March 27, 2019, in Charleston. Jury instructions and proposed voir dire are to be filed by March 20, 2019;
- II. All pretrial motions are to be filed by March 4, 2019;
- III. A pretrial motions hearing before the undersigned is scheduled for 10:00 a.m. on March 11, 2019, in Charleston;
- IV. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.¹

¹ The court notes that, for purposes of determining compliance with the Speedy Trial Act, "in cases involving multiple defendants only one speedy trial clock, beginning on the date of the commencement of the speedy trial clock of the most recently

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 4th day of December, 2018.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge

added defendant, need be calculated under 18 U.S.C. § 3161(h)(7).” United States v. Piteo, 726 F.2d 50, 52 (2d Cir. 1983); see also United States v. Walker, Nos. 95-5914, 96-4247, 96-4110, 1997 WL 358770, *3 (4th Cir. June 30, 1997) (quoting Piteo).